

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No. 81 of 2000

Date of Decision: 14.8.2015

The Commissioner of Income Tax, Patiala

....Appellant.

Versus

M/s Ghunna Ram & Sons, Patiala

...Respondent.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Ms. Savita Saxena, Advocate for the appellant.

Mr. S.K. Mukhi, Advocate for the respondent.

AJAY KUMAR MITTAL, J.

1. The revenue has claimed the following substantial question of law in this appeal filed under Section 260A of the Income Tax Act, 1961 (in short “the Act”) against the order dated 28.10.1999 (Annexure A-3) passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as “the Tribunal”) in ITA No. 914/Chandi/1992 for the assessment year 1984-85:-

“Whether on the facts and in the circumstances of the case, the ITAT was right in law in deleting the addition of ₹ 55,000/- made by the A.O. u/s 154 by holding that this amount relates to the amount already declared under the Amnesty Scheme for the A.Y. 1976-77 and 1977-78 and consequently allowed the benefit of set off in the A.Y. 1984-85?”

2. Briefly stated, the facts necessary for disposal of the present appeal are that the assessee is a commission agent dealing in foodgrains and filed its return on 31.3.1985 declaring an income at ₹ 1,48,706/-. The said return was processed under Section 143(3) of the Act which was completed on 31.3.1987. The Assessing Officer vide assessment orders dated 30.3.1990 and dated 18.3.1991 (Annexure A-1 Colly) made an addition of ₹ 3,56,000/- on account of peak of cash in the books of account of the assessee in the names of various creditors and banks etc. as on 31.3.1984 and on pointing out by the Assistant Commissioner of Income Tax that there was a calculation mistake, the Assessing Officer vide rectificatory order under Section 154 of the Act increased the addition of ₹ 3,56,000/- by a sum of ₹ 55,000/-. Feeling aggrieved, the assessee filed an appeal before the Commissioner of Income Tax (Appeals) [for brevity, "the CIT(A)"]. The CIT(A) vide order dated 25.3.1991 and dated 28.2.1992 (Annexure A-2 Colly) allowed the appeal and deleted the addition of ₹ 55,000/-. Being dissatisfied, the revenue filed an appeal before the Tribunal who vide orders dated 21.4.1998 and dated 28.10.1999 (Annexure A-3 Colly) dismissed the appeal. Hence, the present appeal by the revenue.

3. Learned counsel for the revenue submitted that the Tribunal has wrongly deleted the addition of ₹ 55,000/- made by the Assessing Officer under Section 154 of the Act holding that the amount in question related to the amount already declared under the Amnesty Scheme for the assessment years 1976-77 and 1977-78 and allowed the benefit of set off in the assessment year 1984-85.

4. On the other hand, learned counsel for the assessee supported the order passed by the Tribunal.

5. After hearing learned counsel for the parties, we do not find any merit in the appeal. The Tribunal while dismissing the appeal of the revenue had held as under:-

“5. A perusal of the impugned order of the Tribunal shows that the addition came to be deleted taking note of the fact that the assessee had declared substantial amounts under the Amnesty Scheme, i.e., ₹ 2,40,000/- for assessment year 1976-77 and ₹ 3,50,000/- for assessment year 1977-78 and the addition of ₹ 3,56,500/- was not required to be separately made as the same could be treated to have come out of the amounts disclosed earlier. By means of the order u/s 154, the AO increased the addition of ₹ 3,56,500/- by a sum of ₹ 55,000/- on the ground of a calculation of mistake.

6. In the light of the order of the Tribunal and the sum of ₹ 3,56,500/- plus ₹ 55,000/- being lesser than the total amount disclosed under the Amnesty Scheme, we find no good ground to interfere with the view taken by the CIT(A). We can only state that the Id. DR vehemently supported the order passed by the Assessing Officer.”

6. It was recorded by the Tribunal that the assessee had declared an amount of ₹ 2,40,000/- for the assessment year 1976-77 and ₹ 3,50,000/- for the assessment year 1977-78 under the Amnesty Scheme. It was also noticed that addition of ₹ 3,56,500/- was not required to be separately made as the same could be taken to have

been included in the amounts disclosed in earlier assessment years. The Income Tax Case No. 35 of 1999 under Section 256(2) of the Act filed by the revenue challenging such deletion was dismissed by this Court on 9.11.2010. The Tribunal further recorded that the addition of ₹ 55,000/- also fell within the permissible limit of declaration made by the assessee under the Amnesty Scheme for the assessment years 1976-77 and 1977-78. In such circumstances, we do not find any error in the approach of the Tribunal in upholding the deletion of ₹ 55,000/- in the current year.

7. The finding recorded by the Tribunal was not shown to be erroneous or perverse in any manner which may warrant interference by this Court. Accordingly, the substantial question of law as reproduced in para 1 is answered against the revenue. Thus, there is no merit in this appeal and the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

August 14, 2015
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(RAMENDRA JAIN)
JUDGE